



State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2147 FAX (603) 271-6588



Terrence Graham  
P.O. Box 1180  
Plymouth, NH 03264

RE: Alton, NH -Lake  
Winnepesaukee

**ADMINISTRATIVE ORDER**  
**No. WD 01-36**

December 13, 2001

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Water Division to Terence Graham pursuant to RSA 482-A:6. This Administrative Order is effective upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH 03301.
2. Terence Graham is an individual d/b/a Docks Unlimited / and is not registered as a New Hampshire corporation having a mailing address of Docks Unlimited, P.O. Box 1180.

**C. STATEMENTS OF FACTS AND LAW**

1. RSA 482-A authorizes DES to regulate dredging, filling, and construction in surface waters of the state, shorelines of surface waters, and in wetlands. RSA 482-A:11, I authorizes DES to adopt rules to implement the wetlands law. Pursuant to this authority, the Commissioner of DES has adopted NH Admin. Rules Wt 100-700.
2. RSA 482-A:14, III provides that failure, neglect or refusal to comply with RSA 482-A or rules adopted under that chapter, or an order or condition of a permit issued under RSA 482-A, and the misrepresentation by any person of a material fact made in connection with any activities regulated or prohibited by RSA 482-A shall be deemed violations of RSA 482-A.
3. Charlotte Rabbitt Johnson is the owner of land located at Alton tax map 64, lot 11("the Property").
4. On December 13, 2001, DES personnel inspected the Property and found the following:
  - (a) No siltation and erosion controls on site;
  - (b) Rutting of approximately 12 linear feet of shoreline;

- (c) Machinery rutting throughout the shoreline of approximately 163 linear feet.
- (d) Deposition of approximately 6 cubic yards of stone fill in the bed and bank of Lake Winnepesaukee.

5. On December 13, 2001, DES personnel observed Terrence Graham actively mining and transporting stone fill into Lake Winnepesaukee. DES personnel requested that Mr. Graham voluntarily cease work and he refused. He indicated that the Property was being transferred tomorrow and this would be his only chance to remove the rock from the Property.
6. New Hampshire RSA 482-A:3 provides that "No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department."
7. DES has no record of a permit for the work in question.
8. Terrence Graham has been fined by DES for marine construction without a permit previously and has not paid over \$5,000 in fines.

#### **D. DETERMINATION OF VIOLATIONS**

1. Terence Graham has violated RSA 482-A:3, I by filling approximately 6 cubic yards of fill in Lake Winnepesaukee without a permit from DES.
2. Terrence Graham has violated RSA 482-A: 3, I by continuing filling and carrying out work in jurisdiction without a permit.

#### **E. ORDER**

Based on the above findings, DES hereby orders Terence Graham as follows:

1. Immediately cease all construction activities on the Property and in and adjacent to Lake Winnepesaukee except as specifically authorized by this order.
2. Immediately install siltation and erosion control measures to prevent further erosion into Lake Winnepesaukee.
3. Within two days of this order, retain a qualified wetland scientist to prepare a restoration plan.
4. Submit a restoration plan to DES for restoration of the disturbed shoreline within 20 days of this order.
5. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, other than appeals, to DES as follows:

Mary Ann Tilton  
DES Water Division  
6 Hazen Drive  
PO Box 95  
Concord, NH 03302-0095  
Fax: (603) 271-6588  
e-mail: mtilton@des.state.nh.us

#### F. APPEAL

Any party aggrieved by this Order may apply for reconsideration with respect to any matter determined in this action within 20 days from the date of the Order. A motion for rehearing must describe in detail each ground for the request. DES may grant a rehearing if in its opinion, good reason is provided in the motion. Filing an appeal or motion for reconsideration of the Order will not automatically relieve you of your obligation to comply with the Order.

#### G. OTHER PROVISIONS

Please note that RSA 482-A provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Terence Graham remains obligated to comply with all applicable requirements. DES will continue to monitor Terence Graham's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Belknap County Registry of Deeds so as to run with the land.

*for* **COPY**  
Harry T. Stewart, P.E., Director  
Water Division

**COPY**  
George Dana Bisbee,  
Assistant Commissioner

Certified Mail/RRR: 7001 1940 0002 4869 5468

cc: Gretchen Rule, Administrator, DES Legal Unit  
Public Information Officer, DES Public Information Center  
Jennifer Patterson, Senior Asst. Attorney General, EPB, NHDOJ  
Belknap County Registry of Deeds  
Alton Selectmen  
Alton Conservation Commission